**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 2979 of 2002**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE KS JHAVERI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**AMRELI NAGAR PALIKA - Petitioner(s)**

**Versus**

**GUJARAT PRADESH MUNICIPAL KARMACHARI MAHA SANGH & 1 - Respondent(s)**

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**Appearance :**
MR TUSHAR MEHTA for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,
MR BS MISHRA for Respondent(s) : 2,

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**CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**

**Date : 19/01/2006**

**ORAL JUDGMENT**

1. This petition is directed against the award dated 29th June 2001 passed by the Industrial Tribunal, Bhavnagar, in Reference (IT) No.130 of 1993 whereby the Tribunal has directed to regularise the services of Shri Bharatkumar Talakchand Gorasia from the date on which he has completed 240 days in his service.

2. The short facts of the case are that the respondent raised a demand to regularise the the service of Shri Bharatkumar Talakchand Gorasiya. The dispute was referred to the Labour Court and ultimately the Labor Court passed the aforesaid award which is challenged in this petition.

3. The main contention raised in this petition is that there is no permanent post vacant in the set up of the petitioner Municipality and the petitioner cannot employ any person without

previous sanction of the appropriate authority.

4. As a result of hearing and perusal of the record, I am of the view that the Tribunal has not considered the aforesaid aspect of the matter while passing the award in question. Even otherwise, the issue is squarely covered by the decision of this Court in the case of Amreli Municipality Vs. G.P.M.E. Union, reported in 2004(2) GLH 692, wherein it is held that Labour Courts/Industrial Tribunals cannot issue direction conferring benefits of permanency or regularization when recruitment in the local body has been made dehors the recruitment rules.

Therefore, I am of the view that the impugned award is required to be quashed and set aside and the matter is required to be remanded to the Tribunal for fresh decision.

5. In the premises aforesaid, the impugned award

is quashed and set aside. The matter is remanded to the Labour Court for fresh decision in accordance with the principles laid down in the aforesaid decision. Since the matter is old, the Tribunal shall hear and decide the reference within a period of 9 months from the date of receipt of writ of this Court. The status quo as on today will continue till the disposal of the Reference. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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